

SEP 14 2016

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA, )  
v. ) Case No. 5:09-cr-00028  
TIMOTHY WAYNER PAINTER, ) By: Michael F. Urbanski  
Defendant ) United States District Judge

**ORDER**

Petitioner Timothy Wayne Painter has filed a motion to vacate, set aside or correct his sentence under 28 U.S.C. § 2255 and asks that he be re-sentenced to a total period of incarceration of 139 months. ECF No. 199. The United States agrees that Petitioner's § 2255 motion should be granted and that he should be re-sentenced to a period of incarceration of 139 months. ECF No. 208.

The parties are **DIRECTED** to contact the clerk's office to schedule a hearing at which the court will consider the merits of Petitioner's § 2255 petition. If the court grants the § 2255 motion, the court will re-sentence Petitioner at the same hearing. The Court **DIRECTS** the parties to prepare argument as to why § 2255 relief is appropriate and, if so, why the court should re-sentence Petitioner to a period of incarceration of 139 months. The United States Probation Office is directed to prepare and make available to the parties an amended pre-sentence report prior to the hearing.

It is so ORDERED.

Entered: 09/13/2016

1st Michael F. Urbanski

Michael F. Urbanski  
United States District Judge